



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 29, 2019

Ashley Yarberry
2401 Ellis Ct.
Plano, Texas 75075
ayarberry@hotmail.com

CM/RRR# 7007 0220 0000 5714 5727
& *Via Email*

Re: Cause No. D-1-GN-15-004487, *City of Dallas v. Ken Paxton, Attorney General of Texas*, In the 419 Judicial District Court of Travis County, Texas (Dallas61) (OR2015-26494)

Dear Ashley Yarberry,

This letter involves your request for information from the City of Dallas. The City and the Attorney General have reached a settlement in this case and some of the information responsive to your request may be withheld under Texas Government Code section 552.107 and *Paxton v. City of Dallas*, 509 S.W.3d 247 (Tex. 2017) (*see* enclosed agreed final judgment).

The Attorney General is required to attempt to notify you of this settlement and, as the requestor, you have the right to intervene in this suit to contest withholding this information (*see* enclosed Tex. Gov't Code § 552.325(c)). The court is required to give you a reasonable period of time to intervene after this notice is given before entering final judgment in the lawsuit.

Please be advised that on August 28, 2019, on the 8:30 a.m. Uncontested Docket, Travis County Courthouse, 1000 Guadalupe, Austin, Texas, the agreed judgment will be presented to the court. If you intend to intervene, your motion must be on file with the Travis County District Clerk's office on or before that date, and it would be greatly appreciated if you would notify me in writing beforehand.

If you have any questions about the lawsuit or the settlement, please contact the undersigned attorney.

Sincerely,



Rosalind L. Hunt
Assistant Attorney General
Administrative Law Division
Office of the Attorney General
Telephone: (512) 475-4166
Facsimile: (512) 457-4677
Rosalind.Hunt@oag.texas.gov

ATTORNEY FOR DEFENDANT
ATTORNEY GENERAL OF TEXAS

encl. Agreed Final Judgment and Tex. Gov't Code § 552.325(c)

cc. James B. Pinson *Via Email:* james.pinson@dallascityhall.com

Cause No. D-1-GN-15-004487

CITY OF DALLAS,	§	IN THE DISTRICT COURT OF
<i>Plaintiff,</i>	§	
v.	§	419th JUDICIAL DISTRICT
KEN PAXTON, ATTORNEY	§	
GENERAL OF TEXAS,	§	
<i>Defendant.</i>	§	TRAVIS COUNTY, TEXAS

AGREED FINAL JUDGMENT

This is a lawsuit under the Public Information Act (PIA), Texas Government Code chapter 552, by which Plaintiff City of Dallas sought declaratory relief from open records rulings OR2015-19528, OR2015-23745, and OR2015-26494 of Defendant Ken Paxton, Attorney General of Texas. The rulings required the City to release information it claimed was subject to the attorney-client privilege because the City did not timely request an attorney general decision and failed to demonstrate a compelling reason to withhold the requested information. *See Tex. Gov't Code § 552.302.*

During the pendency of the lawsuit, the Texas Supreme Court issued *Paxton v. City of Dallas*, 509 S.W.3d 247 (Tex. 2017), which held “a ‘compelling reason’ to withhold confidential attorney-client communications exists and, absent waiver, rebuts the presumption that the information protected by the privilege is ‘subject to required public disclosure.’” *Paxton v. City of Dall.*, 509 S.W.3d 247, 267–68 (Tex. 2017). Consistent with the *Paxton* decision, the parties agree that portions of the requested information are attorney-client

privileged communications and may be withheld from the requestor pursuant to Texas Government Code section 552.107 and *Paxton v. City of Dallas*. Pursuant to section 552.325(c) of the Texas Government Code, the Attorney General may enter into a settlement that allows all or part of the information at issue in this lawsuit to be withheld. The parties agree that settlement is appropriate.

Texas Government Code section 552.325(d) requires the Court to allow a requestor a reasonable period of time to intervene after notice is attempted by the Attorney General. *See Tex. Gov't Code § 552.325*. The Attorney General represents to the Court that in compliance with Texas Government Code section 552.325(c), the Attorney General sent a letter by certified mail and electronic mail to the requestors, Beryl Lipton, Clayton J. Callen, and Ashley Yarberry, on July 29, 2019, providing reasonable notice that the Agreed Final Judgment would be presented to the court on or after this day. The requestors were informed of the parties' agreement that the City must withhold the information at issue. The requestors were also informed of their right to intervene in the suit to contest this Agreed Final Judgment. The requestors have not filed a motion to intervene. After considering the agreement of the parties and the law, the Court is of the opinion that entry of this Agreed Final Judgment is appropriate.

IT IS THEREFORE ORDERED AND DECLARED that:

1. Pursuant to Texas Government Code section 552.107 and *Paxton v. City of Dallas*, 509 S.W.3d 247 (Tex. 2017), the Plaintiff must withhold from the requestor the attorney-client privileged communications identified as Exhibits B and D in the information produced to the Attorney General under the March 1, 2017 Agreed Protective Order.

2. The City must release or withhold all other information responsive to requests for information in compliance with letter rulings OR2015-19528, OR2015-23745, and OR2015-26494. Further, the Office of the Attorney General will not consider these three rulings as “previous determinations” under Texas Government Code section 552.301(a), (f); and, if the precise information is requested again, the City may ask for a decision from the Attorney General under Tex. Gov’t Code § 552.301(g).

3. All court costs and attorney fees are taxed against the parties incurring the same;

4. All relief not expressly granted is denied; and

5. This Order disposes of all claims between the parties and is a final judgment.

Signed this the _____ day of _____, 2019.

PRESIDING JUDGE

AGREED:



JAMES B. PINSON
State Bar No. 16017700
Dallas City Attorney's Office
1500 Marilla Street, Room 7BN
Dallas, Texas 75201
Telephone: (214) 670-3519
Facsimile: (214) 670-0622
james.pinson@dallascityhall.com

ATTORNEYS FOR PLAINTIFF
CITY OF DALLAS



ROSALIND L. HUNT
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ATTORNEY FOR DEFENDANT
ATTORNEY GENERAL OF TEXAS

C**Effective: September 1, 2009**

Vernon's Texas Statutes and Codes Annotated Currentness
Government Code (Refs & Annos)

Title 5. Open Government; Ethics (Refs & Annos)

Subtitle A. Open Government

Chapter 552. Public Information (Refs & Annos)

Subchapter H. Civil Enforcement

→ → **§ 552.325. Parties to Suit Seeking to Withhold Information**

(a) A governmental body, officer for public information, or other person or entity that files a suit seeking to withhold information from a requestor may not file suit against the person requesting the information. The requestor is entitled to intervene in the suit.

(b) The governmental body, officer for public information, or other person or entity that files the suit shall demonstrate to the court that the governmental body, officer for public information, or other person or entity made a timely good faith effort to inform the requestor, by certified mail or by another written method of notice that requires the return of a receipt, of:

(1) the existence of the suit, including the subject matter and cause number of the suit and the court in which the suit is filed;

(2) the requestor's right to intervene in the suit or to choose to not participate in the suit;

(3) the fact that the suit is against the attorney general in Travis County district court; and

(4) the address and phone number of the office of the attorney general.

(c) If the attorney general enters into a proposed settlement that all or part of the information that is the subject of the suit should be withheld, the attorney general shall notify the requestor of that decision and, if the requestor has not intervened in the suit, of the requestor's right to intervene to contest the withholding. The attorney general shall notify the requestor:

(1) in the manner required by the Texas Rules of Civil Procedure, if the requestor has intervened in the suit; or

(2) by certified mail or by another written method of notice that requires the return of a receipt, if the requestor has not intervened in the suit.

(d) The court shall allow the requestor a reasonable period to intervene after the attorney general attempts to give notice under Subsection (c)(2).

CREDIT(S)

Added by Acts 1995, 74th Leg., ch. 1035, § 24, eff. Sept. 1, 1995. Amended by Acts 2009, 81st Leg., ch. 1377, § 11, eff. Sept. 1, 2009.

END OF DOCUMENT



KEN PAXTON
ATTORNEY GENERAL OF TEXAS
POST OFFICE BOX 12548
AUSTIN, TEXAS 78711-2548

R.H. MC OI&
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Ashley Yarberry
2401 Ellis Ct.
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